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8 Attorney for Defendant
9 CEFERINO ORTIZ

FILED

2007 OCT 31 P 3:18

RICHARD W. WIEKING *tsn*
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13
14 UNITED STATES OF AMERICA,)
15)
16 Plaintiff,)
17)
18 v.)
19)
20 CEFERINO ORTIZ,)
21)
22 Defendant.)
23)
24)
25)
26)
27)
28)

CASE NO.: CR-07-00524 -JW

**MOTION FOR
RECONSIDERATION
AND REDUCTION
OF BAIL**

Date: 11-05-'07
Time: 9:30 a.m.
Courtroom: 2

21 To Scott N. Schools, United States Attorney, and Thomas M. O'Connell,
22 Assistant United States Attorney:

23 Notice is hereby given that on the 5th day of November, 2007, at 9:30 a.m.
24 the Defendant, Ceferino Ortiz, will move the court to reconsider its previous ruling
25 setting bail in the amount of \$150,000.00 and reduce bail to \$94,000.00.
26
27
28

Motion for Reconsideration and Bail Reduction

1 This motion is made on the ground that the amount of bail currently fixed is
2 excessive and, therefore contrary to the provisions of the Eighth Amendment of the
3 United States Constitution and contrary to Section 3142(c)(2) of Title 18 of the
4 United States Code which precludes fixing bail or setting any "financial condition"
5 of release in an amount that "results in the pretrial detention of the person."
6

7 The bail is excessive because the defendant's and wife are the owners of a
8 house and real property which they intend to post or pledge in lieu of cash bail.
9 However at this time, the equity in the property amounts to only \$94,000.00.
10 Because of the excessive bail of \$150,000.00 there is not sufficient equity to allow
11 the property to be posted or pledged in lieu of a cash bail.
12

13 **I. PROCEDURAL HISTORY:**

14 On August 8, 2007, a four count indictment was filed with this court charging
15 Mr. Ortiz and Mr. Ricardo Saez with conspiring to distribute 50 grams and more of
16 methamphetamine in violation of Title 21 United States Code Sections 841(a)(1) and
17 841(b)(1)(A)(viii) and 841(b)(1)(B)(viii). The defendant was arraigned before the
18 court on August 24, 2007. On that date bail was set in the amount of \$150,000.00.
19

20 The defendant entered a plea of guilty to Count One of the Indictment. At this
21 time, he is awaiting sentencing.

22 **II. LEGAL ARGUMENTS:**

23 Section 3142(c)(2) and 3142(c)(3) of Title 18 of the United States Code read
24 as follows:
25

26 (c) Release on conditions.

27 (2) The judicial officer may not impose a financial condition that results in
28 the pretrial detention of the person.

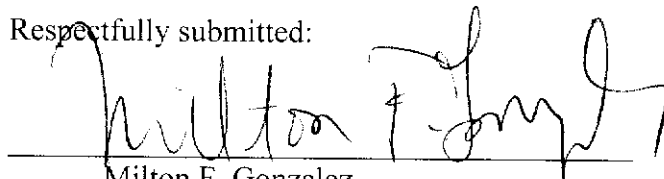
1
2 (3) The judicial officer may at any time amend the order to impose additional
3 or different conditions of release.

4 As stated in this motion, the defendant's father and his wife are the owners of
5 a house and real property. Said house and real property is located at 271 Miller Road,
6 Hollister, San Benito County, California. Both persons are willing to post the
7 property on the defendant's behalf in the form of a property bond in lieu of cash bail.
8 Bail in this matter is set at \$150,000.00. The property has been appraised at
9 \$380,000.00 and the sum of loan balance on the property is \$285,009.89. Their
10 equity in the property is \$94,990.11.
11

12 The present amount of bail \$150,000.00 therefore constitutes a financial
13 condition that is resulting in the defendant's detention. The court has the authority at
14 this time to amend its order and reduce bail to the amount of equity in the property
15 \$94,000.00.
16

17
18 Dated:

Respectfully submitted:

19
20 

21 Milton F. Gonzalez,
22 Attorney for Defendant,
23 Ceferino Ortiz, Jr.
24
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1 Case Name: UNITED STATES vs. CEFERINO ORTIZ, JR.

2 Case No. : CR0700524

3
4 **PROOF OF SERVICE - CCP 1013a, 2015.5**

5 I declare as follows:

6 I am over the age of 18 years, and not a party to this action. My business address is 449
7 Leavesley Road, Suite G, Gilroy, California, County of Santa Clara.

8 On October 31, 2007, I served the **DEFENDANT (CEFERINO ORTIZ JR.'S) MOTION**
9 **FOR RECONSIDERATION AND REDUCTION OF BAIL** as follows:

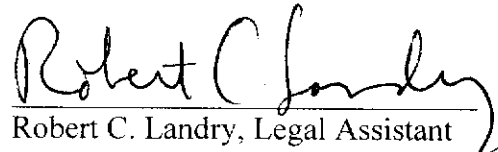
10 **SCOTT N. SCHOOLS, Esq.**
11 **UNITED STATES ATTORNEY**
12 **THOMAS M. O'CONNELL, Esq.**
13 **ASSISTANT UNITED STATES ATTORNEY**
14 150 ALMADEN BOULEVARD
15 SUITE 900
16 SAN JOSE, CA 95113

17 ☐ **(BY MAIL)** I am readily familiar with the business practice at my place of business for
18 collection and processing of correspondence for mailing with the United States Postal Service.
19 Correspondence so collected and processed is deposited with the United States Postal Service
20 that same day in the ordinary course of business

21 ☐ **(BY FAX MACHINE)** I caused the said document to be transmitted by facsimile
22 machine to the number indicated after the addressee(s) noted above; that the facsimile machine
23 provided confirmation that the facsimile has been sent correctly.

24 ☒ **(BY PERSONAL SERVICE)** I caused each such envelope to be delivered hand to the
25 addressee(s) noted above.

26 I declare under penalty of perjury under the laws of the State of California that the
27 foregoing is true and correct and that this declaration was executed on October 31, 2007, at
28 Gilroy, California.


Robert C. Landry, Legal Assistant